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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,200	05/14/2001	Cindy L. Price	659-787	8178
7590 12/30/2005			EXAMINER	
BRINKS HOFFER GILSON & LIONE LTD. P.O. Box 10395 Chicago, IL 60610			REICHLE, KARIN M	
			ART UNIT	PAPER NUMBER
			3761	
DATE MAILED: 12/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Porter

<b>Office Action Summary</b>	<b>Application No.</b> 09/855,200	<b>Applicant(s)</b> PRICE ET AL.	
	<b>Examiner</b> Karin M. Reichle	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-14 and 16-48 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,12,13,18,19,23,28,29,33,36-39,42,43 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8-11,14,16,17,20-22,24-27,30-32,34,35,40,41,44,45,47 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/22/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11-22-05 has been entered.

### ***Election/Restrictions***

2. Claims 6-7, 12-13, 18 -19, 23, 28-29, 33, 36-39, 42-43 and 46 are still withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

### ***Specification***

#### ***Drawings***

3. The drawings were received on 2-6-04. These drawings are not approved by the Examiner. The proposed drawing changes are not approved because they do not conform Figure 5 to Figure 7 as argued. Figure 7 shows the rightmost element 76 overlapping the retention portion while Figure 5 does not. See also Response to Arguments section infra.

***Claim Language Interpretation***

4. In claims 1, 14 and 24, with respect to the side margin being unattached to the bodyside surface of the body panel between the free edge and the location, “unattached” is interpreted as not being directly attached. It is further noted that lines 19-22 of claim 14, as now amended, and similar language in claim 22 are interpreted to require that the entirety of each side margin, i.e. the portion, which overlaps the adjacent panel and is positioned between the free edge and a corresponding one of the first and second locations is unattached to the adjacent body panel, i.e. the entirety of the side margin is not required to be unattached to the adjacent body panel.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 4-5, 8-11, 34-35 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao ‘131 in view of Buell ‘003.

See Figures, paragraph bridging pages 5-6 and page 7, line 25-page 9, line 17, i.e. body panel is 2, absorbent composite is 3 which includes a backsheet 16, a topsheet 15, a retention portion 17, the composite is connected to the body surface of the panels at longitudinally extending locations A in the crotch region as shown in Figure 2 to form side margins 18 between free edges and the locations A and include both the topsheet and backsheet extending outward of the side edges of the retention portion and an elastic element which extends less than the entire length of the composite, i.e. between 5% and 100% as shown in the Figures. The side margins

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between the free edges and the locations A are directly unattached to the panel. The retention portion does not form any portion of the side margin, i.e. the portions between A and the free edges in the crotch region of Figure 2 and the ends of the composite are spaced from the waist edge of the body. Claim 1 now requires the side margin to extend from the first terminal ends while the retention portion still does not form any portion thereof whereas, see Figure 4, the ends of the composite of Kao '131 do not have side margins 18. However, also see page 4, lines 18-21 and page 9, lines 4-6 and Figure 2 of Kao and col. 3, lines 41-42 and col. 10, lines 27-29 and Figures 1 and 5 of Buell '003, i.e. interchangeability of hourglass shape, i.e. side margins/flaps/free edges in crotch region only, for rectangular shape, i.e. side margins/flaps/free edges from end to end. To make the hourglass shape of the composite a rectangular shape instead, i.e. make side margins in crotch section only similar side margins but from end to end instead, would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Buell et al. It is the Examiner's first position that such prior art combination teaches side margins extending longitudinally from the terminal ends with the entirety thereof between the connection location(s) and free edge(s) being unattached to the underlying body panel(s) and not including the retention portion. In any case, i.e. the Examiner's second position, see again page 4, lines 18-21 of Kao, i.e. desires free gatherable edges, see 18 in Figure 2, at least in the crotch region, i.e. at a minimum in the crotch region. Therefore, to make the side margins only in the crotch region of Kao similar side margins, i.e. unattached from portions A to free edges and without the retention portion therein, but from end to end of the composite instead, i.e. as claimed, would be obvious to one of ordinary skill in the art in view of the interchangeability as

taught by Buell and the desire of Kao to have more than the crotch regions include free gathered edges. Note also page 7, lines 14-19 and page 10, lines 18-20 of Kao.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kao '131 and Buell '003 as applied to claim 1 supra, and further in view of Rajala '922.

See rejection supra, page 4, lines 5-7 and page 9, lines 6-16, i.e. the Kao '131 device includes a panel of inner and outer layers and the panel includes monolithically formed front and rear sections while Applicant claims the front and rear sections being first and second panels with terminal crotch edges that are spaced apart. It is noted that the claims do not require the garment having no crotch section or a crotch section formed only of the absorbent composite or the direct connection of the composite to the panel at the first and second location. However see Rajala '922, col. 6, line 36, col. 2, lines 60-66 and abstract, lines 1-5, i.e. interchangeability of monolithically formed front and rear sections of an inner layer and an inner layer formed of two panels with terminal crotch edges which are longitudinally spaced. To make the inner liner of Kao two spaced panels rather than one panel would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Rajala. In so doing, the modified Kao device would include the claimed body panel structure.

8. Claims 14, 16-17, 20-22, 24-27, 30-32, 40-41, 44-45 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao '131 in view of Buell '003, Rajala '922 and Hasse et al '151.

See rejection supra, page 4, lines 5-7 and page 9, lines 6-16, i.e. the Kao '131 device includes inner and outer layers which have monolithically formed front and rear sections while Applicant claims the front and rear sections comprising respective first and second panels and

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each panel having at least two substrates with substrate terminal crotch edges that are spaced apart. It is noted that the claims do not require the garment having no crotch section or a crotch section formed only of the absorbent composite or only two body panels, i.e. can include layers in addition to the panels which include monolithically formed front and rear sections. However see Rajala '922, col. 6, line 36, col. 2, lines 60-66, and abstract, lines 1-5, i.e. interchangeability of monolithically formed front and rear sections of an inner layer and an inner layer formed of two panels with terminal crotch edges which are longitudinally spaced. Col. 9, lines 21-49, especially lines 33-34, also appear to teach that the inner layer 14 can be two panels and each panel can be a combination of fibers or foam and plastic film, i.e. each panel has two substrates. In any case see Hasse et al which teaches an absorbent composite or assembly attached to a chassis or garment which has inner and outer layers with monolithically formed front and rear section in which each layer can be one or more than one substrate, see Figures and col. 3, line 36-col. 4, line 10. To make the inner liner of Kao two spaced panels rather than one panel and of two substrates, both having a terminal crotch edge, would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Rajala and Hasse et al. In so doing, the modified Kao device would include the claimed body panel structure. With regard to the method claims, see col. 1, lines 10-15, col. 4, lines 58-61 and col. 5, lines 41-50.

### ***Response to Arguments***

9. Applicants remarks with respect to the Figures have been considered but are deemed not persuasive because they are inconsistent, i.e. the showing of "position" of locations necessarily shows width dimension and position of one location relative another while it might

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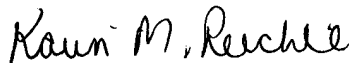
not represent exact width dimensions. Therefore the location lines in Figure 5 and 7 are still not consistent. The remainder of Applicant's remarks have been considered but are deemed not persuasive in light of the prior art rejections supra.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
December 22, 2005